

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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USDC Docket Number : 05-cv-10637

In The Matter of The Petition of Kavanough Fisheries, Inc.

v.

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**CLERK'S CERTIFICATE**

I, Sarah A. Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents numbered:

1-50

and contained in 1 Volume(s) are the original or electronically filed pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 5/3/2007.

In testimony whereof, I hereunto set my hand and affix the seal of the Court on May 16, 2007.

By: \_\_\_\_\_



Receipt of the documents in the above entitled case is hereby acknowledged this date: 5/16/07.

D. Baichuck  
Deputy Clerk, US Court of Appeals

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Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: \_\_\_\_\_

APPEAL

**United States District Court  
District of Massachusetts (Boston)  
CIVIL DOCKET FOR CASE #: 1:05-cv-10637-GAO  
Internal Use Only**

In The Matter of Kavanaugh Fisheries, Inc.  
Assigned to: Judge George A. O'Toole, Jr  
Cause: 28:1331(a) Fed. Question: Real Property

Date Filed: 03/31/2005  
Jury Demand: None  
Nature of Suit: 290 Real Property: Other  
Jurisdiction: Federal Question

**In Re**

**In The Matter of The Petition of  
Kavanaugh Fisheries, Inc.**

*Owner of the F/V Atlantic For  
Exoneration from or limitation of  
liability*

represented by **Joseph A. Regan**  
Regan & Kiely, LLP  
88 Black Falcon Avenue, Suite 330  
Boston, MA 02210  
617-723-0901  
Fax: 617-723-0977  
Email: jar@regankiely.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Syd A. Saloman**  
Tucker, Heifetz & Saltzman, LLP  
Three School St.  
Boston, MA 02108  
617-557-9696  
Fax: 617-227-9191  
Email: Saloman@ths-law.com  
**TERMINATED: 05/05/2006**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Petitioner**

**Kavanagh Fisheries, Inc.**

represented by **Kavanagh Fisheries, Inc.**  
**PRO SE**

**Claimant**

**Zim American Integrated Shipping  
Services Ltd.**

represented by **David J. Farrell, Jr.**  
Law Office of David J. Farrell, Jr.  
2355 Main Street  
S. Chatham, MA 02659  
508-432-2121  
Fax: 508-432-2334  
Email: farrell@sealaw.org

*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Claimant**

**Krones, Inc.**

represented by **Robert W. Harrington**  
Law Offices of Robert W. Harrington  
One Washington Mall  
Boston, MA 02108  
617-248-0800  
Fax: 617-248-9885  
Email: [rwhlaw@att.net](mailto:rwhlaw@att.net)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Rachel H Prindle**  
Law Offices of Robert W. Harrington  
One Washington Mall  
Boston, MA 02108  
617-248-0800  
Fax: 617-248-9885  
Email: [rwhlaw@att.net](mailto:rwhlaw@att.net)  
*ATTORNEY TO BE NOTICED*

**Interested Party**

**Berryford Shipping (UK) Limited**

represented by **Thomas J. Muzyka**  
Clinton & Muzyka P.C.  
One Washington Mall  
Suite 1400  
Boston, MA 02108  
617-723-9165  
Fax: 617-720-3489  
Email: [tmuzyka@clinmuzyka.com](mailto:tmuzyka@clinmuzyka.com)  
*ATTORNEY TO BE NOTICED*

**Interested Party**

**Lombard Corporate Finance  
(December 3) Limited**

represented by **Thomas J. Muzyka**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Counter Claimant**

**Zim Integrated Shipping Services Ltd**

represented by **David J. Farrell, Jr.**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

V.

**Counter Defendant**

**In The Matter of The Petition of  
Kavanaugh Fisheries, Inc.**

*Owner of the F/V Atlantic For  
Exoneration from or limitation of  
liability*

represented by **Syd A. Saloman**








(See above for address)

**TERMINATED: 05/05/2006**

**LEAD ATTORNEY**

**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
03/31/2005	<u>1</u>	PETITION for Exoneration From or Limitation of Liability Filing fee: \$ 250, receipt number 63145, filed by In The Matter of The Petition of Kavanaugh Fisheries, Inc.. (Attachments: # <u>1</u> )(Smith3, Dianne) Modified on 4/6/2005 to correct filing date (Edge, Eugenia). (Entered: 04/01/2005)
03/31/2005	<u>2</u>	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Bowler. (Smith3, Dianne) (Entered: 04/01/2005)
04/19/2005	<u>2</u>	MOTION to Appoint Expert ( <i>Appraiser</i> ) by In The Matter of The Petition of Kavanaugh Fisheries, Inc.. (Attachments: # <u>1</u> Exhibit A - DuBois Curriculum Vitae# <u>2</u> Exhibit B - Order to Appraise)(Saloman, Syd) (Entered: 04/19/2005)
04/22/2005	<u>3</u>	NOTICE of Appearance by Thomas J. Muzyka on behalf of Berryford Shipping (UK) Limited (Muzyka, Thomas) (Entered: 04/22/2005)
04/22/2005	<u>4</u>	NOTICE of Appearance by Thomas J. Muzyka on behalf of Lombard Corporate Finance (December 3) Limited (Muzyka, Thomas) (Entered: 04/22/2005)
05/10/2005	<u>5</u>	NOTICE of Appearance by David J. Farrell, Jr on behalf of Zim American Integrated Shipping Services Ltd. (Farrell, David) (Entered: 05/10/2005)
05/13/2005	<u>6</u>	MOTION for Order to Motion for Order Directing Issuance of Notice and Restraining Prosecution of Claims and for Acceptance of Ad-Interim Stipulation for Value by In The Matter of The Petition of Kavanaugh Fisheries, Inc.. (Attachments: # <u>1</u> Text of Proposed Order Order Directing Issuance of Notice and Restraining Prosecution of Claims# <u>2</u> Ad-Interim Stipulation for Value# <u>3</u> Notice of Petition for Exoneration from or Limitation of Liability)(Saloman, Syd) (Entered: 05/13/2005)
05/13/2005	<u>7</u>	Opposition re <u>6</u> MOTION for Order to Motion for Order Directing Issuance of Notice and Restraining Prosecution of Claims and for Acceptance of Ad-Interim Stipulation for Value filed by Zim American Integrated Shipping Services Ltd.. (Farrell, David) (Entered: 05/13/2005)
05/17/2005	<u>8</u>	Judge George A. O'Toole Jr.: Electronic ORDER entered denying <u>6</u> Motion for Order substantially for the reasons set forth in the opposition ( No. 7 on 5/13/05) (Lyness, Paul) (Entered: 05/17/2005)

05/17/2005		Remark- The defendant's emergency motion to stay the order in CA 05-10989-GAO is GRANTED through noon tomorrow ( 5/18/05) A hearing is scheduled for 5/18/05 at 10:00am in Courtroom 9 on the 3rd floor. Please mark your calendars accordingly. (Lyness, Paul) (Entered: 05/17/2005)
05/18/2005		Electronic Clerk's Notes for proceedings held before Judge George A. O'Toole Jr.: Hearing held on 5/18/2005, In civil action no. 05-10989, the defendants' emergency motion for reconsideration ( No. 8) is granted in part and denied in part. An order will enter staying execution of the arrest warrant issued on May 17, 2005 and enjoining the owner of the F/V Atlantic from removing the vessel from its current location. In civil action no. 05-10637, the petitioner's motion to appoint expert appraiser ( No. 2) is granted. The petitioner shall file the appraiser's report and, by Wednesday, May 25, 2005, deposit with the Court security, in the form of a surety bond, equal to the owner's interest in the value of the vessel and pending freight as reflected in the appraiser's report. A further hearing will be held on Wednesday, May 25, 2005 at 2 p.m. Motions terminated: <u>2</u> MOTION to Appoint Expert ( <i>Appraiser</i> ) filed by In The Matter of The Petition of Kavanaugh Fisheries, Inc., (Court Reporter Shelly Killian.) (Lyness, Paul) (Entered: 05/18/2005)
05/24/2005	 8	NOTICE by In The Matter of The Petition of Kavanaugh Fisheries, Inc. <i>Notice of Petitioner, Kavanagh Fisheries, Inc., to Compel Surrender of the Letter of Undertaking or, Alternatively, Allow the Withdrawal of the Letter of Undertaking Issued to Lombard Corporate Finance (December 3) Limited and Berryford Shipping (U.K.) Limited and Allow Substituting of a Bond in its Place</i> (Regan, Joseph) (Entered: 05/24/2005)
05/25/2005	 9	Report of Court Appointed Appraiser <i>Appraiser's Report</i> by In The Matter of The Petition of Kavanaugh Fisheries, Inc..(Regan, Joseph) Modified on 5/27/2005 to add text. This is not a motion. Document Terminated. (Edge, Eugenia). (Entered: 05/25/2005)
05/25/2005	 10	MOTION to <i>Compel Surrender of the Letter of Undertaking or, Alternatively, Allow the Withdrawal of the Letter of Undertaking Issued to Lombard Corporate Finance (December 3) Limited and Berryford Shipping (U.K.) Limited and Allow Substituting of a Bond in its Place</i> by In The Matter of The Petition of Kavanaugh Fisheries, Inc.. (Attachments: # <u>1</u> Petitioners Memorandum of Law in Support of Motion to Compel)(Regan, Joseph) (Entered: 05/25/2005)
05/25/2005	 11	Letter/request (non-motion) from Petitioner's Request for Hearing. (Regan, Joseph) (Entered: 05/25/2005)
05/25/2005		Electronic Clerk's Notes for proceedings held before Judge George A. O'Toole Jr.: Hearing held on 5/25/2005, the petitioner's motion to compel ( No. 10) is GRANTED. ( See separate order) Motions terminated: <u>10</u> MOTION to <i>Compel Surrender of the Letter of Undertaking or, Alternatively, Allow the Withdrawal of the Letter of Underiaking Issued to Lombard Corporate Finance (December 3) Limited and Berryford Shipping</i>



		(U.K.) Limited and Allow Substituting of a filed by In The Matter of The Petition of Kavanaugh Fisheries, Inc... (Court Reporter Shelly Killian.) (Lyness, Paul) (Entered: 05/25/2005)
05/25/2005	<u>12</u>	Judge George A. O'Toole Jr.: ORDER entered. (Lyness, Paul) (Entered: 05/25/2005)
05/26/2005	<u>13</u>	MOTION for Order to Petitioner's Submission of Bond and Motion for Order Directing Issuance of Notice and Restraining Prosecution of Claims by In The Matter of The Petition of Kavanaugh Fisheries, Inc.. (Attachments: # <u>1</u> Bond under Rule F and Other Supplemental Rules of Certain Admiralty and Maritime Claims# <u>2</u> Order Directing Issuance of Notice and Restraining Prosecution of Claims# <u>3</u> Notice of Petition for Exoneration from or Limitation of Liability)(Regan, Joseph) (Entered: 05/26/2005)
05/26/2005	<u>14</u>	Opposition re <u>13</u> MOTION for Order to Petitioner's Submission of Bond and Motion for Order Directing Issuance of Notice and Restraining Prosecution of Claims <i>Clarification</i> filed by Zim American Integrated Shipping Services Ltd.. (Farrell, David) (Entered: 05/26/2005)
05/27/2005	<u>15</u>	Judge George A. O'Toole Jr.: ORDER entered. Granting <u>13</u> MOTION for Order to Petitioner's Submission of Bond and Motion for Order Directing Issuance of Notice and Restraining Prosecution of Claims filed by In The Matter of The Petition of Kavanaugh Fisheries, Inc. Motions terminated: <u>13</u> MOTION for Order to Petitioner's Submission of Bond and Motion for Order Directing Issuance of Notice and Restraining Prosecution of Claims. cc/cl(Edge, Eugenia) (Entered: 05/27/2005)
05/27/2005	<u>16</u>	NOTICE of Petition For Exoneration From or Limitation of Liability In The Matter of The Petition of Kavanaugh Fisheries, Inc. cc/cl (Edge, Eugenia) (Entered: 05/27/2005)
08/10/2005	<u>17</u>	TRANSCRIPT of Motion Hearing held on May 25, 2005 before Judge O'Toole. Court Reporter: Shelly M. Killian. The original transcripts are maintained in the case file in the Clerk's Office. Copies may be obtained by contacting the court reporter at 617/737-7117 or the Clerk's Office. (Scalfani, Deborah) (Entered: 08/10/2005)
08/30/2005	<u>18</u>	ANSWER to Complaint by Berryford Shipping (UK) Limited.(Muzyka, Thomas) (Entered: 08/30/2005)
08/30/2005	<u>19</u>	CLAIM Pursuant to Supplemental Rule F (5) by Berryford Shipping (UK) Limited, Berryford Shipping (UK) Limited. Berryford Shipping (UK) Limited claim filed 8/30/2005, answer due 9/19/2005; Berryford Shipping (UK) Limited claim filed 8/30/2005, answer due 9/19/2005. by Berryford Shipping (UK) Limited; Berryford Shipping (UK) Limited. (Muzyka, Thomas) (Entered: 08/30/2005)
08/30/2005	<u>20</u>	ANSWER to Complaint by Lombard Corporate Finance (December 3) Limited.(Muzyka, Thomas) (Entered: 08/30/2005)

08/30/2005	<u>21</u>	CLAIM Pursuant to Supplemental Rule F (5) by Lombard Corporate Finance (December 3) Limited, Lombard Corporate Finance (December 3) Limited. Lombard Corporate Finance (December 3) Limited claim filed 8/30/2005, answer due 9/19/2005; Lombard Corporate Finance (December 3) Limited claim filed 8/30/2005, answer due 9/19/2005. by Lombard Corporate Finance (December 3) Limited; Lombard Corporate Finance (December 3) Limited. (Muzyka, Thomas) (Entered: 08/30/2005)
08/30/2005	<u>22</u>	Zim's ANSWER to Complaint <i>Affirmative Defenses</i> , COUNTERCLAIM against In The Matter of The Petition of Kavanaugh Fisheries, Inc. by Zim Integrated Shipping Services Ltd.(Farrell, David) (Entered: 08/30/2005)
09/22/2005	<u>23</u>	MOTION for Entry of Default <i>Pursuant to Rule F(5) of the Supplemental Rules for Certain Admiralty and Maritime Claims</i> by In The Matter of The Petition of Kavanaugh Fisheries, Inc..(Saloman, Syd) (Entered: 09/22/2005)
11/04/2005	<u>23</u>	Judge George A. O'Toole Jr.: ElectronicORDER entered granting <u>23</u> Motion for Entry of Default (Lyness, Paul) (Entered: 11/04/2005)
11/04/2005	<u>24</u>	Judge George A. O'Toole Jr.: ORDER entered. DEFAULT JUDGMENT (Lyness, Paul) (Entered: 11/04/2005)
04/05/2006	<u>25</u>	NOTICE of Scheduling Conference Scheduling Conference set for 5/23/2006 02:00 PM in Courtroom 9 before Judge George A. O'Toole Jr.. Please mark your calendars accordingly.(Lyness, Paul) (Entered: 04/05/2006)
05/05/2006	<u>26</u>	NOTICE of Withdrawal of Appearance by Syd A. Saloman (Saloman, Syd) (Entered: 05/05/2006)
05/16/2006	<u>27</u>	CERTIFICATE OF CONSULTATION <i>LR 16.1</i> by David J. Farrell, Jr on behalf of Zim American Integrated Shipping Services Ltd.. (Farrell, David) (Entered: 05/16/2006)
05/16/2006	<u>28</u>	CERTIFICATE OF CONSULTATION <i>L.R. 16.1</i> by Thomas J. Muzyka on behalf of Berryford Shipping (UK) Limited. (Muzyka, Thomas) (Entered: 05/16/2006)
05/16/2006	<u>29</u>	CERTIFICATE OF CONSULTATION <i>L.R. 16.1</i> by Thomas J. Muzyka on behalf of Lombard Corporate Finance (December 3) Limited. (Muzyka, Thomas) (Entered: 05/16/2006)
05/16/2006	<u>30</u>	JOINT STATEMENT re scheduling conference. (Muzyka, Thomas) (Entered: 05/16/2006)
05/16/2006	<u>31</u>	CERTIFICATION pursuant to Local Rule 16.1 by In The Matter of The Petition of Kavanaugh Fisheries, Inc..(Regan, Joseph) (Entered: 05/16/2006)
05/23/2006	<u>3</u>	ElectronicClerk's Notes for proceedings held before Judge George A. O'Toole Jr.: Scheduling Conference held on 5/23/2006. Court adopts joint statement. Parties to file Status Report by 6/30/06. Status Conference set for 4/10/2007 02:00 PM in Courtroom 9 before Judge George A. O'Toole Jr.. (Court Reporter Shelly Killian.) (Edge, Eugenia) (Entered: 05/24/2006)

06/30/2006	<u>32</u> Disclosure pursuant to Rule 26 by In The Matter of The Petition of Kavanaugh Fisheries, Inc.. (Attachments: # <u>1</u> Acadia Insurance Policy 1# <u>2</u> Acadia Insurance Policy 2# <u>3</u> Acadia Insurance Policy 3# <u>4</u> Acadia Insurance Policy 4# <u>5</u> Acadia Insurance Policy 5# <u>6</u> Zurich 1# <u>7</u> Zurich 2# <u>8</u> Zurich 3# <u>9</u> Zurich 4# <u>10</u> Zurich 5# <u>11</u> Zurich 6# <u>12</u> CRA 1# <u>13</u> CRA 2)(Regan, Joseph) (Entered: 06/30/2006)
07/03/2006	<u>33</u> STATUS REPORT <i>on Cargo Claims</i> by Berryford Shipping (UK) Limited, Lombard Corporate Finance (December 3) Limited. (Muzyka, Thomas) (Entered: 07/03/2006)
11/17/2006	<u>34</u> NOTICE of Appearance by Robert W. Harrington on behalf of Krones, Inc. (Harrington, Robert) (Entered: 11/17/2006)
11/17/2006	<u>35</u> MOTION to Substitute Party <i>and Counsel</i> by Krones, Inc..(Harrington, Robert) (Entered: 11/17/2006)
11/17/2006	<u>36</u> CERTIFICATE OF CONSULTATION re <u>35</u> MOTION to Substitute Party <i>and Counsel</i> by Krones, Inc. by Krones, Inc.. Related document: <u>35</u> MOTION to Substitute Party <i>and Counsel</i> filed by Krones, Inc.,.(Harrington, Robert) (Entered: 11/17/2006)
11/17/2006	<u>37</u> NOTICE of Appearance by Rachel H Prindle on behalf of Krones, Inc. (Prindle, Rachel) (Entered: 11/17/2006)
11/29/2006	<u>38</u> Opposition re <u>35</u> MOTION to Substitute Party <i>and Counsel</i> <i>Petitioner, Kavanaugh Fisheries, Inc.'s Opposition to the Motion of Krones, Inc. to Substitute Party and Counsel</i> filed by Kavanaugh Fisheries, Inc.. (Regan, Joseph) (Entered: 11/29/2006)
12/01/2006	<u>39</u> MOTION for Leave to File Claim Late by Krones, Inc..(Harrington, Robert) Modified on 12/4/2006 (Edge, Eugenia). (Entered: 12/01/2006)
12/01/2006	<u>40</u> CERTIFICATE OF CONSULTATION re <u>39</u> MOTION Leave to File Claim Late. (Harrington, Robert) (Entered: 12/01/2006)
12/01/2006	<u>41</u> Opposition re <u>35</u> MOTION to Substitute Party <i>and Counsel</i> filed by Lombard Corporate Finance (December 3) Limited. (Muzyka, Thomas) (Entered: 12/01/2006)
12/13/2006	<u>42</u> Opposition re <u>39</u> MOTION Leave to File Claim Late filed by Lombard Corporate Finance (December 3) Limited. (Muzyka, Thomas) (Entered: 12/13/2006)
12/15/2006	<u>43</u> Opposition re <u>39</u> MOTION Leave to File Claim Late filed by Kavanaugh Fisheries, Inc.. (Attachments: # <u>1</u> Exhibit A - Part 1# <u>2</u> Exhibit A - Part 2# <u>3</u> Exhibit A - Part 3# <u>4</u> Exhibit A - Part 4)(Regan, Joseph) (Entered: 12/15/2006)
02/01/2007	<u>44</u> MOTION for Extension of Time to April, 2007 to Extend Scheduling Order by Lombard Corporate Finance (December 3) Limited.(Muzyka, Thomas) (Entered: 02/01/2007)



02/02/2007	<u>45</u>	Opposition re <u>44</u> MOTION for Extension of Time to April, 2007 to Extend Scheduling Order filed by Kavanagh Fisheries, Inc.. (Regan, Joseph) (Entered: 02/02/2007)
02/08/2007	<u>46</u>	ADDENDUM re <u>44</u> MOTION for Extension of Time to April, 2007 to Extend Scheduling Order <i>Zim Statement</i> filed by Zim American Integrated Shipping Services Ltd.. (Attachments: # <u>1</u> )(Farrell, David) (Entered: 02/08/2007)
02/15/2007	<u>47</u>	MEMORANDUM in Opposition re <u>44</u> MOTION for Extension of Time to April, 2007 to Extend Scheduling Order filed by Kavanagh Fisheries, Inc.. (Regan, Joseph) (Entered: 02/15/2007)
04/10/2007	<u>48</u>	Electronic Clerk's Notes for proceedings held before Judge George A. O'Toole Jr.: Status Conference held on 4/10/2007. After oral argument, the court DENIES the following motions: Documents number (44), (39), and (35). Attorney Muzyka to file a motion for jury trial. Motions terminated: <u>44</u> MOTION for Extension of Time to April, 2007 to Extend Scheduling Order filed by Lombard Corporate Finance (December 3) Limited., <u>39</u> MOTION Leave to File Claim Late filed by Krones, Inc., <u>35</u> MOTION to Substitute Party and Counsel filed by Krones, Inc.. Bench Trial set for 8/6/2007 09:00 AM in Courtroom 9 before Judge George A. O'Toole Jr.. Final Pretrial Conference set for 7/26/2007 02:00 PM in Courtroom 9 before Judge George A. O'Toole Jr.. (Court Reporter Shelly Killian.) (Lyness, Paul) (Entered: 04/10/2007)
05/03/2007	<u>48</u>	NOTICE OF APPEAL by Krones, Inc. Filing fee \$ 455, receipt number 1505792 NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at <a href="http://www.ca1.uscourts.gov/clerks/transcript.htm">http://www.ca1.uscourts.gov/clerks/transcript.htm</a> MUST be completed and submitted to the Court of Appeals. Appeal Record due by 5/23/2007. (Harrington, Robert) (Entered: 05/03/2007)
05/09/2007	<u>49</u>	TRANSCRIPT ORDER FORM by Krones, Inc.. (Harrington, Robert) (Entered: 05/09/2007)
05/09/2007	<u>50</u>	CERTIFICATE OF SERVICE by Krones, Inc. re <u>49</u> Transcript Order Form. (Harrington, Robert) (Entered: 05/09/2007)